



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0819; FRL-9266-02-R9]

Air Plan Approval; Arizona; Bullhead City; Second 10-Year PM₁₀ Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Bullhead City portion of the Arizona State Implementation Plan (SIP). These revisions concern the second 10-year maintenance plan for the Bullhead City area for the 1987 national ambient air quality standards (NAAQS or “standards”) for particulate matter less than 10 micrometers in diameter (PM₁₀).

DATES: This rule will be effective on [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0819. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

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SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

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I. Background

The EPA has established health-based standards for PM₁₀. On July 1, 1987, the EPA promulgated two standards for PM₁₀: a 24-hour standard of 150 micrograms per cubic meter (µg/m³) and an annual PM₁₀ standard of 50 µg/m³.¹ Effective December 18, 2006, the EPA revoked the annual PM₁₀ standard but retained the 24-hour PM₁₀ standard.² In this document, references to the PM₁₀ NAAQS or PM₁₀ standard refer to the 24-hour average standard of 150 µg/m³, unless otherwise noted.

Under section 107(d) of the Clean Air Act (CAA or “Act”), the EPA is required to designate areas of the country, based on ambient air quality data, as attainment, unclassifiable, or nonattainment for each NAAQS. Under the CAA Amendments of 1990, the Bullhead City area was designated as part of a large “unclassifiable” area in Arizona for the PM₁₀ NAAQS.³ In 1993, in light of PM₁₀ NAAQS violations monitored in 1989 and 1990, the EPA redesignated the Bullhead City area as a “Moderate” nonattainment area for the PM₁₀ standard.⁴ To meet the SIP

¹ 52 FR 24634 (July 1, 1987).

² 71 FR 61144 (October 17, 2006).

³ For the definition of the Bullhead City maintenance area, see 40 CFR 81.303. The Bullhead City maintenance area is located in western Arizona. The original nonattainment area was defined by the equivalent of approximately six townships covering more than 200 square miles: T21N, R20–21W, excluding Lake Mead National Recreation area; T20N, R20–22W; and T19N, R21–22W, excluding the Fort Mohave Indian Reservation. On June 26, 2002, the EPA approved the State's request that some areas of undisturbed desert terrain containing no industrial or commercial activity be excluded from the Bullhead City PM₁₀ planning area (67 FR 43020, 43022). As a result of the boundary change, the townships comprising the maintenance area include: T21N, R21W, excluding Lake Mead National Recreation Area; T20N, R21–22W; and T19N, R22W, excluding the Fort Mohave Indian Reservation.

⁴ 58 FR 67334 (December 21, 1993).

planning requirements for such areas, state and local agencies adopted and implemented a number of control measures to reduce PM₁₀ emissions and lower ambient PM₁₀ concentrations in the Bullhead City area, including paving of certain unpaved roads. In 2002, the EPA determined that the Bullhead City area had attained the PM₁₀ NAAQS by the applicable attainment date of December 31, 2000.⁵ The 24-hour standard is attained when the expected number of days with levels above 150 µg/m³ (averaged over a 3-year period) is less than or equal to one.

Under CAA section 175A, one of the criteria for an area to be redesignated from nonattainment to attainment is the approval of a maintenance plan. The maintenance plan must, among other requirements, ensure control measures are in place such that the area will continue to maintain the standard for the period extending 10 years after redesignation and include contingency provisions to assure that violations of the NAAQS will be promptly remedied.

In 2002, the Arizona Department of Environmental Quality (ADEQ) submitted a maintenance plan, titled “Bullhead City Moderate Area PM₁₀ Maintenance Plan and Request for Redesignation to Attainment” (February 2002) (“First 10-Year LMP”) to the EPA as a revision to the Arizona SIP, and requested that the EPA redesignate the Bullhead City area to attainment.⁶ The First 10-Year LMP provided for maintenance of the PM₁₀ NAAQS in the Bullhead City area for 10 years after redesignation. On June 26, 2002, the EPA approved the First 10-Year LMP for the Bullhead City area as providing for maintenance through 2012.⁷

CAA section 175A(b) requires states to submit an additional SIP revision to maintain the NAAQS for 10 years after the expiration of the 10-year period covered by the initial maintenance plan approved in connection with the redesignation of the area from nonattainment to attainment. On May 24, 2012, ADEQ submitted a second 10-year maintenance plan, titled “Limited Maintenance Plan Update for the Bullhead City PM₁₀ Maintenance Area” (May 2012)

⁵ 67 FR 7082 (February 15, 2002).

⁶ ADEQ, Bullhead City Moderate Area PM₁₀ Maintenance Plan and Request for Redesignation to Attainment, February 2002.

⁷ 67 FR 43020.

(“Second 10-Year LMP”), to meet the requirement for the subsequent maintenance plan under CAA section 175A(b). The Second 10-Year LMP is intended to provide for continued maintenance of the PM₁₀ NAAQS for the 10-year period following the end of the first 10-year period, i.e., through June 2022.

Consistent with the requirements at the time, the First 10-year LMP provided for maintenance of both the 24-hour average and annual average PM₁₀ NAAQS. However, because the EPA has revoked the annual average PM₁₀ NAAQS, the Second 10-Year LMP addresses only maintenance of the 24-hour PM₁₀ NAAQS.

On December 9, 2021, the EPA proposed to approve as a revision to the Arizona SIP the Second 10-Year LMP submitted by ADEQ on May 24, 2012, for the Bullhead City area.⁸ The EPA proposed to approve this plan based on the conclusion that it adequately provides for continued maintenance of the PM₁₀ NAAQS in the Bullhead City area through 2022 and thereby meets the requirements for subsequent maintenance plans under section 175A of the Act. Our proposed action contains more information on the plan and our evaluation.

II. Public Comments

The EPA’s proposed action provided a 30-day public comment period. During this period, we received two comments. Both comments were supportive of our proposed action and do not require a response. The comments are available for viewing in the docket for this rulemaking.

III. Final Action

No comments were submitted that change our assessment of the Second 10-Year LMP as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is taking final action to approve as a revision to the Arizona SIP the Second 10-Year LMP for the Bullhead City area for the PM₁₀ NAAQS. The EPA is approving this plan based on the conclusion that it adequately provides for continued maintenance of the PM₁₀ NAAQS in the

⁸ 86 FR 70071.

Bullhead City area through 2022 and thereby meets the requirements for subsequent maintenance plans under section 175A of the Act. The effect of this action is to make the State's continuing commitments federally enforceable for the second 10-year maintenance period with respect to maintenance of the PM₁₀ NAAQS in the Bullhead City area. These commitments include continued monitoring; continued implementation of control measures that were responsible for bringing the area into attainment; preparation and submittal of annual reports; consideration and implementation of contingency measures, as necessary; and submittal of a full maintenance plan if contingency measures fail to provide the required remedy.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 7, 2022.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401 *et seq.*

Subpart D—Arizona

2. Section 52.120, paragraph (e), Table 1, is amended by adding under the heading “Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)” an entry for “Limited Maintenance Plan Update for the Bullhead City PM10 Maintenance Area (May 2012)” after the entry for “San Manuel Sulfur Dioxide Maintenance Plan Renewal, 1971 Sulfur Dioxide National Ambient Air Quality Standards (April 2017)” to read as follows:

§52.120 Identification of plan.

* * * * *

(e) * * *

**Table 1—EPA-Approved Non-Regulatory and Quasi-Regulatory Measures
[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]¹**

Name of SIP provision	Applicable geographic or nonattainment area or title/subject	State submittal date	EPA approval date	Explanation
*	*	*	*	*
Part D Elements and Plans (Other than for the Metropolitan Phoenix or Tucson Areas)				
*	*	*	*	*
Limited Maintenance Plan Update for the Bullhead City PM10 Maintenance Area (May	Bullhead City PM ₁₀ Air Quality Planning Area	May 24, 2012	[Insert date of publication], [Insert <i>Federal Register</i> citation]	Enclosure 1 includes Arizona’s statutory authority provisions. Enclosure 2 is

2012)					ADEQ's completeness checklist. Enclosure 4 includes the public process documentation. Submitted by the Arizona Department of Environmental Quality on May 24, 2012. Fulfills requirements for second 10-year maintenance plan.	
*	*	*	*	*	*	*

¹ Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

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[FR Doc. 2022-07907 Filed: 4/13/2022 8:45 am; Publication Date: 4/14/2022]